

CV-53575

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE

ALFONSO AWWAD d/b/a,  
IN AND OUT WIRELESS

Plaintiff,

V.

STATE FARM INSURANCE  
COMPANY

Defendant.

Civil Action Number:

## NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446, Defendant, State Farm Fire and Casualty Company (“State Farm”), improperly identified in the Complaint as State Farm Insurance Company, hereby files this Notice of Removal removing this case from the Chancery Court of Shelby County, Tennessee, Case No. CH-11-1411-3, where it is currently pending, to the United States District Court for the Western District of Tennessee. This cause is removable pursuant to 28 U.S.C. § 1332, in that Plaintiff’s claims invoke the Court’s diversity jurisdiction and the amount in controversy exceeds the statutorily required \$75,000.00. In support of removal, State Farm respectfully shows the Court as follows:

## INTRODUCTION

1. State Farm Fire and Casualty Company is a foreign corporation incorporated in the State of Illinois and whose principal place of business is in Bloomington, Illinois.
2. Plaintiff, Alfonso Awwad d/b/a In and Out Wireless, is a resident of the State of Tennessee.

3. Plaintiff's complaint seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000).

4. The United States District Court for the Western District of Tennessee is the federal judicial district embracing the Chancery Court of Shelby County, Tennessee, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. §§ 81(b)(1) and 1441(a).

5. Pursuant to 28 U.S.C. §§ 1332, this civil action is removable as it invokes the federal court's diversity jurisdiction. This Court therefore has subject matter jurisdiction over this civil action, and removal is proper.

#### **PROCEDURAL HISTORY**

6. Alfonso Awwad d/b/a In and Out Wireless ("Plaintiff") instituted this civil action in the Chancery Court of Shelby County, Tennessee, on August 26, 2011, arising out of State Farm's denial of a claim for benefits on Policy No. 92-BD-J124-3. A true and correct copy of all process and pleadings as served upon State Farm is attached hereto as Exhibit "A" and is incorporated herein by reference.

7. Pursuant to 28 U.S.C. 1446(d), a copy of this Notice of Removal will be filed with the Shelby County Chancery Court, and written notice will be provided to Plaintiff along with a copy of this pleading.

#### **REMOVAL IS TIMELY FILED UNDER § 1446(b)**

8. "The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter." 28 U.S.C. § 1446

9. The State of Tennessee Department of Commerce and Insurance was served with the summons in this action on August 31, 2011. State Farm received a copy of this action on September 9, 2011. As such, pursuant to 20 U.S.C. § 1446(b), this notice of removal is timely filed since it is filed on or before October 9, 2011.

**WHEREFORE, PREMISES CONSIDERED,** Defendant State Farm, by and through its counsel, desiring to remove this civil action to the United States District Court for the Western District of Tennessee being the district and division for the county in which such civil action is pending, prays that the filing of this Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Notice of Removal with the clerk of the Chancery Court of Shelby County, Tennessee, shall effect the removal of said civil action to this Honorable Court.

Respectfully submitted this 22<sup>nd</sup> day of September, 2011.

THOMASON, HENDRIX, HARVEY  
JOHNSON & MITCHELL, PLLC

By: s/ Christopher L. Vescovo  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served upon the following listed person, via U.S. Mail, postage pre-paid, this the 22<sup>nd</sup> day of September, 2011:

Howard Wagerman, Esq.  
Attorney for Plaintiff  
200 Jefferson Ave., Suite 1313  
Memphis, TN 38103

s/ Christopher L. Vescovo

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